

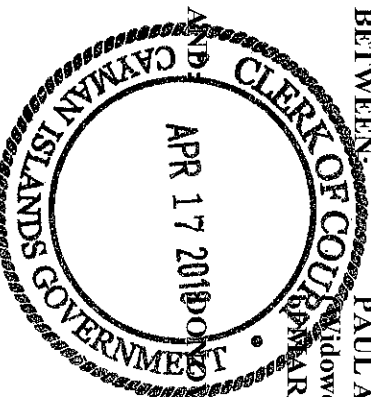
IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. G 72 OF 2018

BETWEEN: PAUL ANTHONY DONALDSON

Widower and one of the Administrators of the Estate  
of MARCIA ANNETTE DONALDSON (deceased)

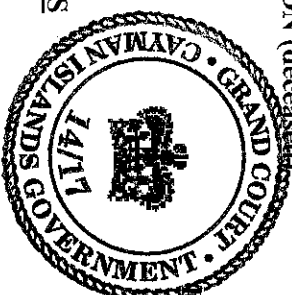
PLAINTIFF



AND DONALDSON LLOYD KELLYMAN

DEFENDANT

WRIT OF SUMMONS



To: Mr. Donovan Lloyd Kellyman  
70 Bluebird Street  
George Town, Grand Cayman  
Cayman Islands

And to: The Insurance Company of the  
West Indies (Cayman) Ltd  
P.O. Box 461, 150 Smith Road  
Grand Cayman KY1-1106  
Cayman Islands

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within Fourteen days (14) after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495, Grand Cayman KY1-1106, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 16<sup>th</sup> day of April, 2018

NOTE – This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

**IMPORTANT**

Directions for Acknowledgment of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff is the widower and one of the administrators of the estate of Marcia Annette Donaldson deceased ("the deceased"), who died on Saturday 25th April 2015 at around 4:32a.m., letters of administration having been granted to him jointly with his two daughters, Renee Raquel Donaldson and Kristelle Sasha Donaldson-Hall out of the Probate and Administration Registry of the Grand Court on March 31, 2016.
2. The Plaintiff brings this action on behalf of the dependants of the deceased and in respect of his bereavement under the Torts Reform Law (1996 Revision) and for the benefit of the estate under the Estate Proceedings Law (1995 Revision).
3. On Saturday 25th April 2015 at around 4:32a.m., the deceased was walking on the right side of the roadway in the vicinity of South Sound Road and the Hurley's Grand Harbour Roundabout. She was on one of her usual early morning walks and was heading west towards South Sound.
4. The Defendant was travelling in the opposite direction heading towards the Grand Harbour Roundabout. Suddenly and without warning, the Defendant drove his 2015 white Suzuki Grand Vitara motor vehicle, registration number 160643 and struck the deceased off the side of the road causing her to be thrown onto the windscreen of his car then into the nearby bushes. The deceased died shortly after the Defendant hit her down with his said vehicle.
5. The accident was caused by the negligence of the Defendant.

PARTICULARS OF NEGLIGENCE

6. The Defendant was negligent in that he:-
  - (a) drove his motor vehicle when his ability to manage or control the same was impaired as a result of the consumption of intoxicating liquor or drugs;
  - (b) drove too fast in all the circumstances and failed to apply his brakes;
  - (c) failed to heed the presence of the Plaintiff as she was walking on the side of the roadway;

- (d) failed to keep any or any proper lookout for the deceased or other users of the roadside;
- (e) failed to keep his motor vehicle under proper control;
- (f) failed to keep his vehicle in proper working order;
- (g) could have and should have seen the Plaintiff as she was walking on the right side of the roadway and could have and should have avoided hitting her;
- (h) failed to take reasonable care to avoid colliding with the Plaintiff which he saw or should have seen was likely to occur;
- (i) failed to exercise due care and skill in the management and control of his motor vehicle; and
- (j) had the last clear chance to avoid the collision but failed to avail himself of that chance.

BREACH OF STATUTORY DUTY

- 7. The Defendant is in breach of the Cayman Islands' Traffic law in that he:
  - (a) drove his vehicle when he consumed alcohol in excess of the legal limit required by law pursuant to section 83 of the Cayman Islands Traffic Law (2011 Revision);
  - (b) drove his vehicle in an excessive rate of speed which exceeds the legal speed on that road at the time of the accident; and
  - (c) failed to observe the rules of the road as required by the Cayman Islands Road Code.
- 8. Had the Defendant not been highly intoxicated and had he exercised or been able to exercise reasonable care and control over his vehicle, he might have and would have seen the Plaintiff and could have avoided the accident.

9. Further the Plaintiff intends to rely on section 52 of the Evidence Law (2018 Revision) to adduce evidence at trial that the Defendant, Donovan Lloyd Kellyman, plead guilty to causing the death of the deceased, by dangerous driving and driving under the influence of alcohol and drugs in the Grand Court on or around 22<sup>nd</sup> July, 2016 under Indictment No. 7 of 2016 in accordance with GCR O. 18, r. 7A.
10. By reason of the death of the deceased, the Plaintiff has been bereaved and the dependants of the deceased have suffered loss and damage.
11. By reason of the matters aforesaid, the deceased suffered injuries from which she died on 25<sup>th</sup> April, 2015. As a result of her death, the deceased's estate and dependants including the Plaintiff have suffered pain and suffering, loss and damage and bereavement.

PARTICULARS OF INJURY

12. As a result of the negligence of the Defendant, the deceased sustained severe multiple injuries including multiple high speed blunt impact trauma to her head, chest and abdomen, to which she later succumbed. She was rendered unconscious shortly after she was hit by the Defendant's vehicle. She was thereafter taken by ambulance to the Health Services Authority where she was pronounced dead.

PARTICULARS PURSUANT TO LAW

13. The names of the persons for whose benefit this action is brought are:
  - (i) Paul Anthony Donaldson, the Plaintiff and widower of the deceased, who was born on 5<sup>th</sup> December, 1954;
  - (ii) Renee Raquel Donaldson, who was born on 31 March, 1988, the adult daughter of the deceased;
  - (iii) Kristelle Sasha Donaldson-Hall, who was born on 27 August, 1986, the other adult daughter of the deceased;

- (iv) Jayda Tiffany Hemraj who was born on 8<sup>th</sup> April, 2003, a minor grand-daughter of the deceased; and
14. The deceased who was born on 28<sup>th</sup> November, 1968 was 46 years old at the time of the incident. She was in good health and lived a full and busy life. She was on one of her routine early morning walks in order to stay fit and healthy when the Defendant hit her down and killed her. The deceased and the Plaintiff had been in a stable relationship for a total of 33 years and had been husband and wife for 28 of those years. They were married on 7<sup>th</sup> May, 1988. She was a hard working woman both inside and outside of the home. She was a kind, loving and dedicated wife, mother and grandmother. She provided financial support for her husband and granddaughter Jayda up to the date of her death.
15. In addition, the deceased carried out household chores such as washing, cooking, cleaning, ironing, as well as decorating and improving the family home and garden.
16. The marriage was a happy one and produced two children who are now adults, Kristelle Sasha Donaldson-Hall, who was born on 27 August, 1986 (31 ½) and Renee Raquel Donaldson, who was born on 31 March, 1988 (30).
17. The deceased maintained a healthy life style and was expected to live and continue working beyond the mandatory retirement age of 65 years.
18. The deceased was the higher income earner of the union. She provided monthly financial support to her granddaughter Jayda who she raised in her home from the time Jayda was 3 months old until she was 9 years old. Despite the fact that Jayda returned to live with her mother, Kristelle at 9 years old, the deceased continued to provide for her educationally and other financial support in general.
19. The deceased was employed as a Corporate Assistant with MaplesFS Service Company Limited (“MaplesFS”) at the time of her death. She commenced work with MaplesFS on 23<sup>rd</sup> February, 2015 on an open ended contract. Her starting salary was C\$51,168.00 per year.

20. She was enrolled with the Chamber Pension Plan and was covered under the Maples Group Health Insurance plan with Aetna, as well as entitled to long term disability, critical illness pay, life insurance and travel insurance.
21. The deceased had been employed with MaplesFS for a period of two months and at the time of her death was undergoing training within the corporate secretarial department in which she worked. She was still under the probationary part of her contract, but based on her qualifications and history as a corporate administrator and as a trust officer, it was likely that she would remain at MaplesFS and progress within that company for a significant period of time, with the very realistic prospect of progressing from a corporate secretary to a more senior position in a short time. She was excited about her job and was confident of being able to advance to an even more rewarding position within that organization.
22. In addition to her employment at MaplesFS, the deceased and the Plaintiff operated a small family business from which she received an annual income of CI\$7,200.00 or CI\$600.00 per month. Her total combined annual income was therefore CI\$58,368.00.
23. The deceased had plans to open a plant nursery which would also generate additional income to the family had she lived. It was also anticipated that the plant nursery would expand and income therefrom would increase.
24. The deceased had a long list of qualifications, which included but not limited to the following:
  - (a) Itau Bank & Trust Cayman Ltd – Anti-Money Laundering plus Counter Terrorist Financing Training.
  - (b) Itau International – Office of Foreign Asset Control Certificate;
  - (c) Itau International – Ethics for Bankers Certificate
  - (d) Itau International Trust Law Basics Certificate;
  - (e) Itau International – Anti Money Laundering Certificate
  - (f) High School diploma – The Department of Education of the Cayman Islands;
  - (g) Professional Development and Training Courses – Anti-Money Laundering;
  - (h) Modern Language of Institute Tutoring – Certificate of Participation;
  - (i) Itau International – Fraud and Scams Certificate;

- (j) Community College of the Cayman Islands – Certificate of Achievement; and
- (k) Legal Secretary Certificate.

25. With her qualifications and ambition, it is anticipated that her annual income would have increased substantially had she lived.

26. A substantial part of the deceased's income was spent for the benefit or the above-mentioned dependants and this spending would have continued had she not died.

27. The sudden death of his wife has caused the Plaintiff to suffer complicated/pathological grief or psychiatric/bereavement disorder. The Plaintiff will rely on medical evidence at the trial in support of this part of his claim.

28. The Plaintiff was on a business trip in Jamaica and the plane had just landed in Kingston when he heard about the death of his wife. He had planned to spend one week in Jamaica on business and then the other week he would spend with his 86 year old mother in Florida. His business trip and time with his elderly mother was ruined. Moreover, he had to purchase new tickets to return to Cayman the same day his wife died and was not able to recover the cost of his return ticket to Grand Cayman.

PARTICULARS OF SPECIAL DAMAGE

29.	<b>Special damages</b>	
	<ul style="list-style-type: none"> <li>• Funeral expenses</li> <li>• Other related funeral expenses (entertainment at wake)</li> <li>• Airline Ticket – Grand Cayman to Jamaica 25.4.15</li> <li>• Return ticket to Cayman via Miami on 25.4.15</li> </ul>	CI\$11,144.00 1,000.00 365.00 <u>434.60</u> CI\$12,943.60

30. **General damages**

- (i) Damages for bereavement and dependency under the Torts (Reform) Law (1996 Revision).
- (ii) Damages for Complicated/Pathological Grief and/or Psychiatric/Bereavement Disorder.
- (iii) Damages for the estate under the Estate Proceedings Law (1995 Revision).

- (iv) Loss of future earnings
- (v) Loss of Future Pension and other fringe benefits such as bonuses.

31. The Plaintiff is entitled to, and claims interests pursuant to the Judicature Law on the amounts found to be due to him at such rate and for such period as the Court thinks fit.

AND THE PLAINTIFF CLAIMS:

- (i) Damages for bereavement and dependency under the Torts (Reform) Law (1996 Revision).
- (ii) Damages for Complicated/Pathological Grief and/or Psychiatric/Bereavement Disorder.
- (iii) Damages for the estate under the Estate Proceedings Law (1995 Revision).
- (iv) Pre-Judgment and Post Judgment Interests.
- (v) Costs

Dated this 16<sup>th</sup> day of April, 2018

*Facey-Clarke & Associates*

Facey-Clarke & Associates  
Attorneys-at-Law for the Plaintiff

This Writ was issued by Facey-Clarke & Associates, Attorneys-at-law for the Plaintiff herein whose address for service is that of his said Attorneys-at-law, Unit 119, Ground Floor, Elizabethan Square, George Town, Grand Cayman

INDORSEMENT AS TO INSURER OF MOTOR VEHICLE PURSUANT TO GCR O.6.1.4

The Plaintiff's claim arises out of the use of a motor vehicle on a public road. The insurer of the vehicle of the Defendant named herein is the Insurance Company of the West Indies (Cayman) Ltd., whose address is 150 Smith Road, George Town, Grand Cayman.



address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Indorsement by plaintiff's Attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box below.

Facey-Clarke & Associates  
Barristers & Attorneys-at-Law  
P.O. Box 2545, Grand Cayman KY1-1104  
Unit 119, Ground Floor, Elizabethan Square,  
80 Shedden Road, George Town, Grand Cayman  
Cayman Islands, B. W. I.  
Email: [mclarke@candw.lk](mailto:mclarke@candw.lk)  
Tel: 345 917 6351

Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.